

**CANDIA PLANNING BOARD
MINUTES of December 19, 2012
PUBLIC HEARING
APPROVED**

Present: Sean James, Chair; Ginny Clifford, Vice Chair; Albert Hall III; Judi Lindsey; Kim Byrd; Fred Kelley, BOS Rep; Alt, Dennis Lewis, Road Agent; Dave Murray, Building Inspector; Dick Snow, BOS

Absent: Steve Bradley; Mark Siemonsma, Alt; Amanda Soares BOS Alt Rep

Chair S. James called the meeting to order at 7:00pm immediately followed by the Pledge of Allegiance.

Minutes November 7, 2012, December 5, 2012

A.Hall **motioned** to accept the Minutes of December 5, 2012 as amended. J. Lindsey **seconded. All were in favor.** S. James abstained.

The minutes of November 7 were deferred to January 2, 2013.

Continuance Waiver Request: John Cole & Scott Komisarek 38 & 39 Fieldstone Lane, Candia NH 03034; Property Owner: Candia Crossing LLC 38 Fieldstone Lane, Candia NH 03034; Property Location: High Street, Candia NH 03034, Map 406 Lot 016; Intent: Request waiver of Section 5.06: 14 Maximum Building Height.

Applicants John Cole and Scott Komisarek were present. Abutters Arlene Richter 34 Deerfield Road and Tom DiMaggio 42 North Road were present.

S. Komisarek said at the last meeting the Board was ready to take a vote then they decided to wait until S. James was present. He said they submitted a packet and discussed the waiver at the last meeting and would be glad to answer any questions. J. Lindsey asked why a waiver would be necessary if the roof line was not changing and asked if it was just semantics to be able to call it two stories. Chair James said this project goes back a few years and at the time the zoning read all buildings shall be single story in height. He said as he reads it, they can have the one story above grade and the basement. He said they are asking for a waiver for a second story. S. Komisarek said the original plans showed a loft area. J. Lindsey confirmed they are not changing the height and confirmed they want to be able to call it a second story so people can finish the loft and use it. J. Cole said the 1st floor plan could be made smaller with the second story which would make the homes more affordable. G. Clifford said their application said they intended to build single story homes. S. Komisarek said the plans were always designed to have a loft but towards the end of the whole process it was inserted to be one story and they had no control over it and had to comply.

Chair James said they are looking for a waiver on the height requirement of single story. J. Lindsey said again it appears to be semantics to allow living space in the loft (second story) with no change to the roof line. G. Clifford said the way the ordinance is written it is the story not just the height. Chair James said it is confusing as the title to that section is maximum height which doesn't change, they just want to use the attic as a second story. Chair James said basements were not an issue. K. Byrd said he counted 37 structures on the plan. S. Komisarek said there are a total of 43 units some being duplexes. K. Byrd asked if this waiver intended to affect all the structures. S. Komisarek said they want to be able to offer the second story because today's consumers want a second story. A. Hall asked what if the new owner wants to finish the basement. Dave Murray, Building Inspector said they would get a permit to finish the basement but the basement does not qualify as a story and would not be denied. A. Hall asked what if they came to you to finish the attic. D. Murray said the attic would qualify as a second story even without any change to the roof line.

S. Komisarek said 55+ is not elderly and they want the ability to offer the second story to the consumer. He said he thought this is what the town wanted, a project that doesn't impact the schools and will bring revenue to the town. He said they are asking the town to work with them and allow the second story to have a product that will sell.

Chair James said under their ability to grant the waiver it states, *“Any provision of this ordinance may be waived, when upon the application by the applicant to the Planning Board, the Board shall determine in its sole discretion 1) that requiring the compliance with the particular provision for granting of a condition Use Permit would create an unreasonable hardship and 2) that the application would be consistent with the spirit and intent of this ordinance.”* He said this is what they should judge the request on.

Chair James said Joe Duarte, Chairman BOS could not be here tonight and sent an email. He read the email into record: *“I highly endorse and recommend approval of this waiver. A Senior Community would be an excellent asset to Candia Revenues for our tax base, no burden on our school budget. This project would attract a group of retired and professional people to assist Candia in recruiting good qualified candidates for our committee's and town leaders each election. Thank you for your consideration, Joe Duarte Chairman BOS”*

K. Byrd said he had a problem with granting a blanket waiver. He suggested granting the waiver on each individual home as they are built. A. Hall said if we deny this waiver do they go to the ZBA and Chair James said I believe they could. Chair James said he is in favor of the project and feels it is good for the town but the Planning Board is charged when elected to follow the ordinances and he feels it goes against the spirit of the ordinance as it is written. He said he is not sure if they have an unreasonable hardship. J. Cole said it is an unreasonable hardship due to the economy. He said they presented a folder showing elderly housing downturn in 2008 showing the senior market was devastated leaving a huge inventory with one story dwellings available and they stopped selling. He said the 55+ market is looking for a smaller footprint more affordable home with the ability to have an office space which the loft will give them. The other provisions of the ordinance do not change such as the 2 bedrooms and maximum of 4 people per dwelling. He said by allowing a loft they offer a smaller footprint and a more affordable home. He said denying the waiver will be a hardship because it will not allow them to have a commodity the consumer wants.

G. Clifford said she was not sure if her interpretation is correct but as she understands a hardship applies to land use and not about the economy and not about if the development is a good economic venture, but whether the regulations as they exist if they are to enforce them create a hardship regarding the nature of the land. She said they can build one story buildings so there is not hardship. She said that is her understanding of what hardship means and felt it was not even a consideration for them to think about the economics and the market but only if there is a condition about the land that makes it unreasonable to have one story homes. She said the second part of granting the waiver is whether it would be against the spirit of the ordinance. She said from what she heard from abutters she is in agreement with the elderly housing single story format. She said it seems the criteria that is specifically given to them that would provide the authority to grant a waiver doesn't exist.

Sis Richter said when she voted for this she was 100% in agreement for it because there is indeed a need in town for housing for the elderly. She said she lives in a cape and does not use the second story. She said if they want to put a loft in that is a great idea, but to put the next story on you are now coming into \$400,000 homes of which there is enough of them in town. J. Cole said what you are saying is that you are in agreement with they are saying about a loft. S. Richter said she is not in agreement with what they are asking. J. Cole said they are not asking to put an entire second floor on and increase the cost of the home, they want to use the existing space and shrink the footprint to make the homes more affordable.

S. Komisarek said it is a hardship trying to compete with what others can supply. He said they are coming to them for something that is quite reasonable and something that makes good

sense. He said if you look around at what is happening in other towns and you say in the strict interpretation you cannot do it then where is the common sense?

T. DiMaggio said he has always been in opposition as it refers to the water rights. He said if you grant a second story you make this living space more appealing you are going to have more occupants and more water usage. He said he has not been able to get a final written agreement between them and himself as to what is going to happen with the water usage on their property. He said he doesn't disapprove with the elderly housing but is concerned with the water usage. He said he didn't sign the agreement because it started from the date they pumped to test the well for 5 years on and they have already lost a number of years so that agreement is now null and void. He said if they cannot come up with another agreement he has to voice his disapproval for the whole process. Chair James said his concerns are well noted and are in the records, if they were allowed to build the second story or finish the second story, it is not for a bedroom, they are limited to 2 bedrooms and 4 people.

T. DiMaggio said if approved what would be the next step. A. Hall said if approved tonight, it doesn't mean they have the authority to start construction tomorrow. J. Cole said there are still steps in the Conditional Approval that have to be done. He said the agreement was given to T. DiMaggio before the NOD was signed. Chair James said either way to move forward there is a list of 12 conditions that have to be met. F. Kelley said we are getting off track again like the last meeting. We are here tonight to discuss the waiver and that is what they should be discussing.

S. Richter asked if their hardship was the change in the economy. J. Cole said what he is saying is the demand for the style of housing has changed and now people are looking for a smaller footprint and many 55+ work from home and 55 is relatively young now a days. He said he is older and works from his home every day. S. Richter said you are talking money. J. Cole said I am talking about the demand and the need to make it more affordable which can be done by reducing the footprint and using the second story space. He said it has always been their intent to have a loft and a second story is what the market wants.

J. Cole said they are trying to do a project that is smart and good for the town while competing in the market place and not having a second story puts them at a disadvantage to compete in the market place. J. Cole fails to see the issue with stairs when cellars are allowed.

J. Lindsey said she sees a lot of positive things with what they are saying with the waiver, using the space more wisely while not increasing the amount of people that can live there. She said this may even increase tax revenues because you will have a home business. She said in the long run a big issue is the water but they are not talking about the water tonight. J. Cole said the water is always going to be an issue and that they will come back for that.

F. Kelley **motioned** to grant the waiver as requested. J. Lindsey **seconded**. F. Kelley, J. Lindsey and A. Hall were in favor. K. Byrd, S. James and G. Clifford **were not in favor**. Motion was tied 3-3. Chair James said it didn't fail or pass. He said the Board has two options, one is to discuss further to see if a Board member will change his or her mind or continue the hearing to the next meeting. F. Kelly said the Town Attorney agrees with the waiver and the Building Inspector said he saw no issue in granting the waiver and he said he couldn't understand why 3 Board members would be against it. He asked why they would vote against it. S. James said his interpretation the way the ordinance was originally written is a single story. He said the advantage given to this conditional use is increased density so instead of conventional development of 14 homes they have 43 dwellings. In his opinion, the intent is small single story homes and if they start making them two stories, it starts to go away from the spirit of the ordinance. F. Kelley said the building height is not increased and doesn't change. Chair James said they can do the same thing by making the footprint larger and knows this will add cost but that is his opinion.

K. Byrd said he doesn't have anything to add and feels in his opinion this is not good for the town. S. Komisarek asked what would be good for the town. K. Byrd said if they followed through with their original plan and not keep trying to change it. S. Komisarek said so you say that this plan

is not good for the town but when you go by the buildings, they will look the same with the second story and would actually only increase revenue. He said if our original project was good and we are just making the original project more appealing then how is something that is good for the town become something that is bad for the town. K. Byrd said if you want to do something that would impress me, solve the water problem. He said you are going forward into an unknown area; you may never get enough water. He said you need to solve that first. Chair James said he understands the water is a big issue but we are not talking about that issue tonight. S. Komisarek said there seems to be a lot of concern over the water but obviously they have to satisfy all the state requirements for water before they continue. He said State regulations are in place to protect the members of the community. They said before they spend more money on the water issue they want to make sure they can build dwellings that they can sell.

L. Miller, 74 Diamond Hill Road said generally speaking when you are talking 55+ older it most likely would be couples or singles. She said she is hearing the dwellings can have up to 4 people but in most instances it is only going to be a couple or a single person, which means they can use one of the bedrooms as an office or sewing room with a daybed for guests. She said she is not disagreeing but there are still options for a couple or single person to have an office without a loft. J. Lindsey said you commonly think of a couple or single person but there could be a mother and daughter or two sisters who need separate bedrooms who would want the extra side room. S. Komisarek said the State regulations are requiring water for 4 occupants and realistically there will not be 4 in every dwelling. He said they could change it to one bedroom 2 occupants to get around requiring that much water but they came in with two bedrooms to have that extra buffer for water. K. Byrd said the way he sees this is they are proposing to build high density housing, high density meaning more people per unit less square feet per person. Chair James said they are going in circles and said he doesn't see a Board member changing their vote. He closed the hearing at 7:45pm and said the hearing is continued to January 2, 2013 meeting. He said this is the only notice abutters will have that the hearing has been continued. J. Cole and S. Komisarek thanked the Board for their time.

Other Business

NH Community Planning Grant Application

Chair James said SNHPC is offering a Round 2 grant which is administered through NH Housing which is a statewide public benefit corporation created under state statutes. He said it provides matching grants to cities and towns to make changes to land use regulations. He said Jack Munn suggested a couple of projects, one being elderly housing needs, one work force housing and another conservation subdivisions easements but felt he did not know how popular those are. He said the second idea was to combine the Planning Board's Site Plans, Subdivision Regulations and Earth Excavation Regulations into one comprehensive user friendly Land Development Regulation. He said currently, Candia has Major Site Plans, Minor Site Plans, Subdivision and Earth Excavation Regulations which are separate and at times can be confusing as they all point to each other. He said for example if you have a road that is part of the Site Plan the regulations are in the Subdivision Regulations which go back to the Zoning Regulations. He said J. Munn said a lot of towns are starting to do this. J. Lindsey thought that it was interesting. Chair James said project A is \$10,000 and project B is \$15,000. He said the way it works is with matching funds from the Town. It requires a 25% match of which a portion has to be cash. The cash portion for Project A would be \$625.00 and Project B would be \$937.00 the remainder would be volunteer time or staff time.

Chair James wanted to see what the Board thought. He said SNHPC is willing to write the grant on the Town's behalf but the only question is that the money is not in the budget this year and he said he is not sure about next year. F. Kelley said it was too late to put in the budget this year. Chair James asked if this was a reasonable change they might be able to get \$937.00 if they are awarded the grant. F. Kelly said he would have to talk to the BOS. Chair James said SNHPC would have to have an answer fairly soon as they are writing the grants in January 2013 because they are

due in February. He said he wasn't sure when they would have to pay the matching amount. He said there are two options, either there is available money from BOS somehow or put it in the 2014 budget or as a warrant article. Chair James said updating and combining 3 different documents would take time. He said whatever they propose and ultimately end up with has to go to a public hearing to be approved. A. Hall asked if a motion was needed and Chair James said no. It was the consensus of the Board to move forward with the grant for the second project to combine the regulations and update them. Chair James said he will ask SNHPC to go ahead.

Warrant Article for Master Plan update

Chair James saw in the last minutes the original amount of \$6,650.00 was amended down to \$4650.00. He said without the money for the mailer they would have to wait until 2014 to send out a questionnaire with the Boy Scout packet and he felt waiting until March 2014 to start phase one was not a good idea. He suggested adding the money back in for mailer if they could still amend the warrant article. Chair James said if approved in March 2013, they can send packets out in the summer, get the results and then see where they are at and how much would be needed to finalize the update. He said there are parts to the Master Plan that are already updated.

G. Clifford **motioned** to increase the warrant article voted on at the December 5, 2012 meeting to \$6,650.00 if the board has not exceeded the deadline. *“To see if the Town will vote to raise and appropriate the sum of ~~Four thousand, Six hundred and Fifty dollars (\$4,650.00)~~ Six thousand, Six hundred and fifty dollars (\$6,650.00) for the first phase of updating the Candia Master Plan per RSA 674:3”* A. Hall **seconded. All were in favor.**

J. Lindsey wanted to thank G. Clifford for a great job as Chair at the December 5, 2012 meeting.

The next scheduled Planning Board meeting is January 2, 2013 at 7pm at the Town Hall.

J. Lindsey **motioned** to adjourn at 8:02 pm. A. Hall **seconded. All were in favor.**

Respectfully submitted,
Sharon Robichaud
Land Use Secretary